

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

2020 MAR -5 A 9:16

CLERK U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA

v.

Case No. 1:20-mj-4

JOHN WILLIAM KIRBY KELLEY,
a/k/a "Carl,"
a/k/a "BotGod"

Defendant.

CONSENT MOTION TO EXTEND TIME FOR INDICTMENT

The United States of America, through undersigned counsel, with the express consent of the defendant, and the defendant's counsel, respectfully moves the Court to extend the time to indict this case through and including April 14, 2020. In support thereof, the parties state as follows:

1. The defendant was arrested on a federal charge on January 10, 2020. The defendant made his initial appearance in the Eastern District of Virginia on January 10, 2020. The defendant was ordered detained pending a combined preliminary and detention hearing. On January 15, 2020, the defendant appeared in court for his combined preliminary and detention hearing. After the defendant waived his preliminary hearing and did not seek release from custody, the Honorable John F. Anderson, United States Magistrate Judge for the Eastern District of Virginia, found that the criminal complaint was supported by probable cause and ordered the defendant detained pending trial.

2. The Speedy Trial Act requires that a defendant be indicted within thirty days of the defendant's arrest. *See* 18 U.S.C. § 3161(b). The Court granted an extension of this time period, extending the time to indict until March 15, 2020.

3. The parties jointly request an extension of approximately 30 days of the time period for indicting the defendant. The parties have been engaged in detailed and productive negotiations regarding a pre-indictment resolution; however, the final details have not yet been resolved. Extending the time in which to obtain an indictment would be in the best interests of justice and the defendant because it will allow him to review the written proposal and time to consult with his attorneys regarding its contents. The parties believe that doing so may spare the public resources required to obtain an indictment. Therefore, the ends of justice served by the requested extension outweigh the interests of the public and the defendant in a speedy indictment and trial.

4. The defendant hereby agrees to waive any objections under the Speedy Trial Act and to extend the government's time to file an indictment in this case through and including April 14, 2020. The waiver is made knowingly, intentionally, and voluntarily by the defendant, and with full knowledge of the provisions of the Speedy Trial Act, Title 18, United States Code, Sections 3161, *et seq.*, and with the advice and consent of counsel.

5. The defendant expressly understands that his waiver is not predicated upon any promises, agreements, or understandings of any kind between the government and the defense in this case, and that nothing contained herein shall be construed to preclude the government from proceeding against the defendant during or after the time period covered by this waiver.

WHEREFORE, the parties request that the time to indict this case be extended to and including April 14, 2020, and that the delay resulting from this extension be excluded in

computing the time within which an indictment must be filed pursuant to Title 18, United States Code, Section 3161(h).

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney

A handwritten signature in blue ink, appearing to read 'CAC', is written over a horizontal line.

Carina A. Cuellar
Assistant United States Attorney

Defendant's Signature: I hereby agree that I have consulted with my attorneys and fully understand all my rights with respect to a speedy trial, including my right to be charged by indictment within 30 days of arrest, after subtracting all excludable time, as required by Title 18, United States Code, Section 3161(b). I have read this motion for an extension of time to be charged by indictment, and carefully reviewed every part of it with my attorneys. I understand this motion and voluntarily agree to it.


Date: 03/04/2020



John William Kirby Kelley
Defendant


Defense Counsel Signature: I am counsel for the defendant in this case. I have fully explained to the defendant the defendant's right to be charged by indictment within 30 days of arrest. Specifically, I have reviewed the terms and conditions of Title 18, United States Code, Section 3161(b), and I have fully explained to the defendant the provisions that may apply in this case. To my knowledge, the defendant's decision to agree to an extension of time to be charged by indictment is an informed and voluntary one.

Date: 3/4/2020



Cadence Mertz, Esq.
Counsel for the Defendant

Date: 3-4-2020



Nathan Wenstrup, Esq.
Counsel for the Defendant